BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

GEORGE L. ROTRAMEL Claimant	}
VS.	Docket No. 190,654
STEPHEN CONSTRUCTION COMPANY	Docket No. 190,034
Respondent AND	
UNITED STATES FIDELITY & GUARANTY CO. Insurance Carrier	

ORDER

The respondent and insurance carrier appealed the Preliminary Hearing Order of Administrative Law Judge John D. Clark entered in this proceeding on December 7, 1994.

Issues

The Administrative Law Judge granted claimant's request for benefits. The respondent and insurance carrier contend claimant failed to prove his current need for medical treatment is directly related to his work-related accident of December 16, 1993. That is the issue now before the Appeals Board.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, for purposes of preliminary hearing, the Appeals Board finds, as follows:

(1) At this juncture of the proceedings, the finding of the Administrative Law Judge that claimant is entitled to medical treatment and temporary total disability benefits should be affirmed.

Based upon the testimony of various lay witnesses, coupled with the information contained in the letter from the claimant's orthopedic specialist, the Appeals Board finds claimant's present need for medical treatment is directly related to his accident at work on December 16, 1993. Therefore, claimant is entitled to workers compensation benefits from the respondent and insurance carrier as ordered by the Administrative Law Judge.

(2) The Appeals Board cannot consider the affidavit claimant attached to his brief to the Appeals Board. Claimant has attempted to introduce additional evidence to the Appeals

IT IS SO ORDERED

Board, by way of affidavit, that was not part of the record before the Administrative Law Judge. The respondent and insurance carrier properly objected to the Appeals Board considering the proffered evidence. The Appeals Board's scope of review is upon questions of law and fact as presented and shown by a transcript of the evidence and the proceedings before the Administrative Law Judge. See K.S.A. 44-555b.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Preliminary Hearing Order of Administrative Law Judge John D. Clark entered in this proceeding on December 7, 1994, should be, and hereby is, affirmed.

II IO GO GRDERED.
Dated this day of February, 1995.
BOARD MEMBER
BOARD MEMBER
BOARD MEMBER

cc: Richard J. Sanborn, Wichita, KS Dana D. Preheim, Wichita, KS John D. Clark, Administrative Law Judge George Gomez, Director